

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN ASSEMBLY JUNE 24, 2015

AMENDED IN SENATE APRIL 15, 2015

AMENDED IN SENATE MARCH 19, 2015

SENATE BILL

No. 204

Introduced by Senator Pavley

February 11, 2015

An act to amend Section 10110 of the Public Contract Code, to amend Sections 513, 5001, 5002.2, 5080.16, and 5080.42 of, to add Sections 5001.2 and 5080.44 to, and to add and repeal Section 5003.9 of, the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 204, as amended, Pavley. State parks.

Existing law establishes the Department of Parks and Recreation and vests the department with the control of the state park system.

This bill would require the Director of Parks and Recreation to promote and regulate the use of the state park system in a manner that conserves the scenery, natural and historic resources, and wildlife in the individual units of the system for the enjoyment of future generations.

The bill would require the Department of Parks and Recreation, on or before December 1, 2016, to prepare a report to the Legislature that identifies the 10 projects within units of the state park system or on other property of the department that may provide the most significant greenhouse gas reductions.

Existing law requires the department to prepare a general plan or revise an existing plan, *plan* for a unit of the state park system following

classification or reclassification of the unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit.

This bill would authorize the department to prepare a management or development plan that includes appropriate environmental review and analysis instead of ~~preparing~~ a general plan for park units in which minimal development may be ~~proposed~~. *proposed and for a park unit to which new development is necessary to comply with public service delivery obligations, operational or code compliance upgrades, or resource preservation requirements that are compatible with the classification of the unit.*

Existing law authorizes the Director of Parks and Recreation to negotiate or renegotiate a concession contract if specified conditions exist.

This bill would additionally authorize the director to negotiate or renegotiate a concession contract if the services provided pursuant to the contract will have minimal impact on state park resources, are inherently mobile or transitory in nature, and do not occupy a state-owned structure. The bill would also declare the intent of the Legislature that the department shall not compete with specified existing concession contracts.

Existing law, until January 1, 2019, authorizes the department to enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit, or units, or portion of a unit, of the state park system, but authorizes the department to enter into an operating agreement that involves the operation of the entirety of a park unit only to avoid closure of a unit or units of the state park system that may otherwise be subject to closure.

This bill would delete the repeal date of that provision, thereby extending its operation indefinitely, and would delete the above limitation on the department's authority to enter into an operating agreement that involves the operation of the entirety of a park unit. The bill would also authorize the department to accept donations of money from public or private sources to be used for the purpose of funding park programs to benefit youth, as defined. The bill would authorize the department to enter into agreements with public or nonprofit organizations that serve youth, to provide service and learning opportunities for youth, as described.

Existing law authorizes the Director of the Department of General Services to permit the department to carry out a project where the nature of work is historic preservation of the state park system. Existing law requires the department to solicit bids and award the project to the lowest responsible bidder or reject all bids, if the estimated total cost of the project exceeds \$25,000, except as provided.

This bill would increase the dollar threshold described above to the total estimated cost of the project exceeding \$750,000.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that the
2 Department of Parks and Recreation not compete with existing
3 concession contracts through which comparable food and beverage
4 services are provided to the public.

5 SEC. 2. (a) The Legislature finds and declares all of the
6 following:

7 (1) Nearly 35,000 volunteers contribute their time and energy
8 to the Department of Parks and Recreation, thereby enhancing the
9 experiences of visitors, complementing the work of departmental
10 staff, and generating economic activity through their voluntary
11 efforts at state parks.

12 (2) The department estimates that volunteers contribute more
13 than 1,000,000 hours each year and generate nearly twenty-five
14 million dollars (\$25,000,000) in economic value to the local and
15 regional economies around state parks through these substantial
16 volunteer efforts.

17 (3) It is the department's existing practice to offer one or more
18 types of complimentary passes to the department's volunteers in
19 recognition of their value-added contributions. Those
20 complimentary passes should also be offered to the volunteers at
21 cooperating associations in recognition of the value-added services
22 they provide.

23 (b) It is the intent of the Legislature that the Department of Parks
24 and Recreation extend the existing policies for the issuance of
25 complimentary state park passes to persons who volunteer at state
26 parks through cooperating associations, as defined in Section 513
27 of the Public Resources Code, consistent with the California State

Government Volunteers Act set forth in Chapter 8.5 (commencing with Section 3110) of Division 4 of Title 1 of the Government Code.

SEC. 3. Section 10110 of the Public Contract Code is amended to read:

10110. (a) Where the nature of the work is historic restoration for the state park system, as determined jointly by the director and the Director of Parks and Recreation, the department may authorize the carrying out of the project directly by the Department of Parks and Recreation.

(b) If the estimated total cost of any construction project or work carried out under this section exceeds seven hundred fifty thousand dollars (\$750,000), the Department of Parks and Recreation shall solicit bids in writing and award the work to the lowest responsible bidder or reject all bids. However, the director may authorize the Department of Parks and Recreation to carry out work in excess of seven hundred fifty thousand dollars (\$750,000) under the provisions of this section by day labor if the director determines, in consultation with the Director of Parks and Recreation, that the award of a contract, the acceptance of bids, or the acceptance of further bids is not in the best interests of the state. The Department of Parks and Recreation shall establish, by regulation, criteria to be considered by the Department of Parks and Recreation in requesting authorization from the director to perform all or part of a project by day labor.

SEC. 4. Section 513 of the Public Resources Code is amended to read:

513. (a) The department, as a means of furthering the interpretive and educational functions of the state park system, may enter into an agreement to act cooperatively with a nonprofit cooperating association engaged in educational or interpretive work in a state park system unit, as the director may designate, whereby the cooperating association would furnish educational and interpretive materials, or educational and interpretive services, or educational and interpretative materials and services, for sale to the public.

(b) Pursuant to Article 1 (commencing with Section 5080.02) of Chapter 1.2 of Division 5, a concession may provide materials and services that are intended to add to the convenience, enjoyment, and safety of state park system visitors. A concession may also

1 provide, pursuant to this section, educational and interpretive
2 materials and services, as described in paragraphs (2) and (3) of
3 subdivision (d), with the approval of the department.

4 (c) A cooperating association may provide, pursuant to this
5 section, noneducational and noninterpretive materials and services,
6 as described in paragraph (4) of subdivision (d), or other materials
7 or services that would enhance the visitor experience, as part of
8 its cooperating association program with the approval of the
9 department, if the department is unable to obtain, through a good
10 faith effort, a concessionaire to provide those materials and
11 services.

12 (d) For purposes of this section, the following definitions apply:

13 (1) “Cooperating association” means a corporation that meets
14 all of the following criteria:

15 (A) The corporation is a nonprofit public benefit corporation,
16 organized pursuant to Part 2 (commencing with Section 5110) of
17 Division 2 of Title 1 of the Corporations Code.

18 (B) The articles of incorporation of the corporation state that
19 the specific purpose of the corporation is to provide support for
20 educational and interpretive programs of the state park system, or
21 portions of the programs.

22 (C) The corporation has a cooperating association program
23 contract with the department.

24 (D) The corporation is in compliance with the department’s
25 policies and guidelines regarding cooperating associations and has
26 obtained the department’s approval for its educational and
27 interpretive materials and services.

28 (2) “Educational and interpretive materials” include items that
29 promote visitor appreciation, understanding, and knowledge of
30 natural, cultural, and historic resources of the state park system,
31 including educational and interpretive gifts and souvenirs.

32 (3) “Educational and interpretive services” include those
33 activities and programs that focus on natural, cultural, and historic
34 resources of the state park system and are not generally offered
35 by the department.

36 (4) “Educational and interpretive materials and services” do not
37 include lodging, food service, horse and equipment rentals,
38 camping supplies, gifts and souvenirs, other than those described
39 in paragraph (2), transportation, except for equipment owned by
40 the department, recreational lessons, and the operation of

1 specialized facilities within a state park unit such as the theater at
2 Hearst San Simeon State Historic Monument and Old Town San
3 Diego State Historic Park, golf courses, and marinas.

4 (e) The department, at its discretion, may provide the services
5 of department personnel and shall provide space, if available, for
6 the sale of cooperating association materials, services, or both,
7 within a state park unit.

8 (f) Subject to rules and regulations that the director shall adopt,
9 all moneys collected by the cooperating association or received
10 by the department from the sale of cooperating association
11 materials, services, or both, provided by a cooperating association
12 shall be retained by or returned to the cooperating association for
13 use in the programs of the state park system unit that the
14 cooperating association has been designated to serve.

15 SEC. 5. Section 5001 of the Public Resources Code is amended
16 to read:

17 5001. (a) The Legislature finds and declares all of the
18 following:

19 (1) California's state parks are a true reflection of our state's
20 collective history, natural and cultural heritage, and ideals. The
21 state parks can be models of healthy, natural, and sustainable
22 ecosystems and they can also commemorate important cultural
23 traditions or historic events. To remain relevant now and into the
24 future, state parks must protect California's heritage and be
25 welcoming in order that visitors may understand and appreciate
26 these special places that have been set aside for their inspiration
27 and enjoyment.

28 (2) The state parks and other nature, recreation, and historic
29 areas deserve to be preserved and managed for the benefit and
30 inspiration of all state residents and visitors to the state parks. It
31 is the intent of the Legislature to clarify the priorities and
32 responsibilities of state agencies with respect to the management
33 and administration of the state park system.

34 (3) Individual units of the state park system derive increased
35 importance and recognition through their inclusion in a unified
36 state park system that is preserved and managed for the benefit
37 and inspiration of all Californians and visitors to the state.

38 (b) The Department of Parks and Recreation has control of the
39 state park system.

1 SEC. 6. Section 5001.2 is added to the Public Resources Code,
2 to read:

3 5001.2. The director shall promote and regulate the use of the
4 state park system in a manner that conserves the scenery, natural
5 and historic resources, and wildlife in the individual units of the
6 system for the enjoyment of future generations.

7 SEC. 7. Section 5002.2 of the Public Resources Code is
8 amended to read:

9 5002.2. (a) (1) Following classification or reclassification of
10 a unit by the State Park and Recreation Commission, and prior to
11 the development of any new facilities in any previously classified
12 unit, the department shall prepare a general plan or revise any
13 existing plan, for the unit.

14 (2) The general plan shall consist of elements that will evaluate
15 and define the proposed land uses, facilities, concessions, operation
16 of the unit, any environmental impacts, and the management of
17 resources, and shall serve as a guide for the future development,
18 management, and operation of the unit.

19 (3) The general plan constitutes a report on a project for the
20 purposes of Section 21100. The general plan for a unit shall be
21 submitted by the department to the State Park and Recreation
22 Commission for approval.

23 (b) The resource element of the general plan shall evaluate the
24 unit as a constituent of an ecological region and as a distinct
25 ecological entity, based upon historical and ecological research of
26 plant-animal and soil-geological relationships and shall contain a
27 declaration of purpose, setting forth specific long-range
28 management objectives for the unit consistent with the unit's
29 classification pursuant to Article 1.7 (commencing with Section
30 5019.50), and a declaration of resource management policy, setting
31 forth the precise actions and limitations required for the
32 achievement of the objectives established in the declaration of
33 purpose.

34 (c) Notwithstanding subdivision (a), the department is not
35 required to prepare a general plan for a unit that has no general
36 plan or to revise an existing ~~plan, as the case may be,~~ *plan* if the
37 only development contemplated by the department consists of the
38 repair, replacement, or rehabilitation of an existing facility; the
39 construction of a temporary facility, if the construction does not
40 result in the permanent commitment of a resource of the unit; any

1 undertaking necessary for the protection of public health or safety;
2 or any emergency measure necessary for the immediate protection
3 of natural or cultural resources; or any combination of these
4 activities at a single unit. Any development is subject to the
5 requirements of the California Environmental Quality Act (Division
6 13 (commencing with Section 21000)).

7 ~~(d) A general plan approved prior to July 1, 1972, may be used~~
8 ~~as the basis for development if the director finds that there has~~
9 ~~been no significant change in the resources of the unit since~~
10 ~~approval of the plan and that the plan is compatible with current~~
11 ~~policies governing development of the unit and the classification~~
12 ~~of the unit.~~

13 *(d) Notwithstanding subdivision (a), the department is not*
14 *required to prepare a general plan or revise an existing plan for*
15 *a unit to which new development is necessary to comply with public*
16 *service delivery obligations, operational or code compliance*
17 *upgrades, or resource preservation requirements that are*
18 *compatible with the classification of the unit. The department may*
19 *instead prepare a management or development plan with*
20 *appropriate environmental review and analysis.*

21 (e) Consistent with good planning and sound resource
22 management, the department shall, in discharging its
23 responsibilities under this section, attempt to make units of the
24 state park system accessible and usable by the general public at
25 the earliest opportunity.

26 (f) The department may prepare a general plan that includes
27 more than one unit of the state park system for units that are in
28 close proximity to one another and that have similar resources and
29 recreational opportunities if that action will facilitate the protection
30 of public resources and public access to units of the state park
31 system.

32 (g) Notwithstanding subdivision (a), the department may prepare
33 a management or development plan that includes appropriate
34 environmental review and analysis instead of a general plan for
35 park units in which minimal development may be proposed.

36 SEC. 8. Section 5003.9 is added to the Public Resources Code,
37 to read:

38 5003.9. (a) The Legislature finds and declares that the
39 department should identify its energy costs, projects that could
40 reduce those costs, and potential energy-related infrastructure

1 projects that may be eligible for funding from revenues that may
2 be generated pursuant to a market-based compliance mechanism
3 that may be adopted by the State Air Resources Board pursuant
4 to Part 5 (commencing with Section 38570) of Division 25.5 of
5 the Health and Safety Code.

6 (b) (1) On or before December 1, 2016, the department shall
7 prepare a report to the Legislature that identifies the 10 projects
8 within units of the state park system or other property of the
9 department that may provide the most significant greenhouse gas
10 reductions.

11 (2) The report required pursuant to paragraph (1) shall be
12 submitted in compliance with Section 9795 of the Government
13 Code.

14 (c) Pursuant to Section 10231.5 of the Government Code, this
15 section is repealed on January 1, 2021.

16 SEC. 9. Section 5080.16 of the Public Resources Code is
17 amended to read:

18 5080.16. If the director determines that it is in the best interests
19 of the state, the director, upon giving notice to the State Park and
20 Recreation Commission, may negotiate or renegotiate a contract,
21 including terms and conditions, when one or more of the following
22 conditions exist:

23 (a) The bid process as prescribed in this article has failed to
24 produce a best responsible bidder.

25 (b) The negotiation or renegotiation would constitute an
26 extension of an existing contract obtained through the process
27 required by this article and the extended contract would provide
28 for substantial and additional concession facilities, which would
29 be constructed at the sole expense of the concessionaire and which
30 are set forth in the general plan for the unit and are needed to
31 accommodate existing or projected increased public usage.

32 (c) Lands in the state park system administered by the
33 department and lands under the legal control of the prospective
34 concessionaire are so situated that the concession is dependent
35 upon the use of those public and private lands for the physical or
36 economic success, or both, of the concession.

37 (d) Whenever a concession is desired for particular interpretive
38 purposes in a unit of the state park system and the prospective
39 concessionaire possesses special knowledge, experience, skills, or
40 ability appropriate to the particular interpretive purposes.

(e) Whenever the concession has been severely and adversely impacted through no fault of the concessionaire by an unanticipated calamity, park closure, major construction, or other harmful event or action.

(f) Whenever the estimated administrative costs for the bid process exceed the projected annual net rental revenue to the state.

(g) The services provided pursuant to the contract will have minimal impacts on state park resources, are inherently mobile or transitory in nature, and do not occupy a state-owned structure. Those services may include, but are not limited to, mobile food and beverage services.

SEC. 10. Section 5080.42 of the Public Resources Code is amended to read:

5080.42. (a) Notwithstanding any other provision of this article, the department may enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state park system, as agreed to by the director. The prohibition on park closures, pursuant to subdivision (a) of Section 541.5, does not limit the department's authority to enter into an operating agreement pursuant to this section, as provided in subdivision (e) of Section 541.5. The department may only enter into an operating agreement that involves the operation of the entirety of a park unit for no more than 20 park units. An operating agreement with a qualified nonprofit organization shall include, but shall not be limited to, the following conditions:

(1) The district superintendent for the department shall provide liaison with the department, the nonprofit organization, and the public.

(2) The nonprofit organization shall annually submit a written report to the department regarding its operating activities during the prior year and shall make copies of the report available to the public upon request. The report shall be available on the Internet Web sites of both the department and the nonprofit organization. The report shall include a full accounting of all revenues and expenditures for each unit of the state park system that the nonprofit organization operates pursuant to an operating agreement.

(3) (A) Except as provided in subparagraph (B), all revenues that the qualified nonprofit organization receives from a unit shall

1 be expended only for the care, maintenance, operation,
2 administration, improvement, or development of the unit. The
3 qualified nonprofit organization may additionally contribute in-kind
4 services and funds raised from outside entities for the care,
5 maintenance, operation, administration, improvement, or
6 development of the unit.

7 (B) If the qualified nonprofit organization determines that the
8 revenues it has received from a unit are in excess of the revenues
9 that are needed for the care, maintenance, operation, administration,
10 improvement, or development of that unit, and that these funds
11 are not already specified for or committed to specific purposes
12 pursuant to an existing agreement or contract restricting the use
13 of those funds, the qualified nonprofit organization may dedicate
14 those excess revenues to another state park unit for that unit's care,
15 maintenance, operation, administration, improvement, or
16 development.

17 (4) General Fund moneys shall not be provided to a nonprofit
18 organization to subsidize the operation or maintenance of a park
19 unit. This paragraph applies to state parks, the full operation of
20 which are turned over to a nonprofit organization, but does not
21 apply to or preclude the department from entering into agreements
22 with nonprofit organizations to operate a portion of a state park
23 unit, or from entering into comanagement agreements with
24 nonprofit organizations that involve the sharing of operational and
25 financial responsibilities for the park unit and that have the effect
26 of reducing state costs. This paragraph does not apply to park
27 entrance fees, concession revenues, or any other revenues generated
28 within a park operated by a nonprofit organization pursuant to this
29 section.

30 (b) An operating agreement entered into pursuant to subdivision
31 (a) shall honor the existing term of a current concession contract
32 for the state park unit subject to the operating agreement.

33 (c) An operating agreement entered into pursuant to subdivision
34 (a) shall specify the duties that the nonprofit organization shall be
35 responsible for carrying out relative to management and protection
36 of natural, historical, and cultural resources, and shall identify
37 those management duties that shall continue to be conducted by
38 the department, so that all core operations of the park are
39 delineated. Scientific, architectural, and engineering functions that
40 require special expertise or professional training shall only be

1 conducted by or under the supervision of qualified persons with
2 applicable expertise or training and subject to oversight by the
3 department.

4 (d) This section does not supersede the requirements of Section
5 5019.53 regarding the protection of natural, scenic, cultural, and
6 ecological values.

7 (e) The nonprofit organization and the district superintendent
8 for the department shall, following submittal of the annual report
9 pursuant to subdivision (a), hold a joint public meeting for
10 discussion of the report.

11 (f) If the department intends to enter into an operating agreement
12 for the development, improvement, restoration, care, maintenance,
13 administration, or operation of a unit or units, or a portion of a
14 unit, the department shall notify the Member of the Legislature in
15 whose district the unit is located, the Chair of the Senate Committee
16 on Natural Resources and Water, the Chair of the Assembly
17 Committee on Water, Parks, and Wildlife, and the chairs of the
18 Assembly and Senate budget committees of that intention. The
19 notification shall include estimated operating costs and revenues
20 and core duties and responsibilities that are likely to be assigned
21 to the nonprofit organization and the department.

22 (g) For purposes of this section, a qualified nonprofit
23 organization is an organization that is all of the following:

24 (1) An organization that is exempt from taxation pursuant to
25 Section 501(c)(3) of the Internal Revenue Code.

26 (2) An organization that has as its principal purpose and activity
27 to provide visitor services in state parks, facilitate public access
28 to park resources, improve park facilities, provide interpretive and
29 educational services, or provide direct protection or stewardship
30 of natural, cultural, or historical lands, or resources.

31 (3) An organization that is in compliance with the Supervision
32 of Trustees and Fundraisers for Charitable Purposes Act, Article
33 7 (commencing with Section 12580) of Chapter 6 of Part 2 of
34 Division 3 of Title 2 of the Government Code.

35 (h) (1) Notwithstanding Section 10231.5 of the Government
36 Code, the department shall provide a report to the Legislature, on
37 a biennial basis, of the status of operating agreements it has entered
38 into pursuant to this section. The report shall include a list of units
39 of the state park system with operating agreements, discussion of
40 the management and operations of each unit subject to an operating

1 agreement, an accounting of the revenues and expenditures incurred
2 under each operating agreement, and an assessment of the benefit
3 to the state from operating agreements entered into pursuant to
4 this section.

5 (2) A report submitted pursuant to paragraph (1) shall be
6 submitted in compliance with Section 9795 of the Government
7 Code.

8 SEC. 11. Section 5080.44 is added to the Public Resources
9 Code, to read:

10 5080.44. (a) The department may accept donations of money
11 from public or private sources to be used for the purpose of funding
12 park programs to benefit youth, as described in subdivision (b).

13 (b) Notwithstanding Article 4 (commencing with Section 10335)
14 of Chapter 2 of Part 2 of Division 2 of the Public Contract Code,
15 the department may enter into agreements, including agreements
16 that involve the transfer of funds appropriated to the department,
17 with public or nonprofit organizations that serve youth to provide
18 service and learning opportunities for young people by performing
19 work on state park system programs and projects under the
20 supervision of department employees, where the work is not being
21 performed by state park employees. Programs and projects covered
22 under this subdivision include all of the following:

23 (1) Restoring California's natural, historic, archaeological,
24 recreational, and scenic resources.

25 (2) Training young people to be public land and resources
26 managers and stewards for careers in public service.

27 (3) Undertaking appropriate cultural and natural resource
28 conservation in a cost-effective and appropriate manner.